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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,097

05/03/2006

Hiroshi Kajitani

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4691

466 7590 07/23/2010

YOUNG & THOMPSON  
209 Madison Street  
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Alexandria, VA 22314

EXAMINER

YANCHUK, STEPHEN J

ART UNIT

PAPER NUMBER

1795

NOTIFICATION DATE

DELIVERY MODE

07/23/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,097	<b>Applicant(s)</b> KAJITANI ET AL.	
	<b>Examiner</b> STEPHEN YANCHUK	<b>Art Unit</b> 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. All outstanding objections and rejections are withdrawn in light of applicant's amendment filed on 1/23/2009
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in prior office action.
3. The new grounds of rejection set forth below are necessitated by applicant's amendment filed on 1/23/2009. The following action is properly made final.
4. The previous 112 rejection has been overcome

### ***Claim Rejections - 35 USC § 112***

Claim 22, 25, and 28 contains the trademark/trade names. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe the absorbent and, accordingly, the identification/description is indefinite. MPEP 706.03(d)

***Claim Rejections - 35 USC § 102***

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakanishi et al. (PGPUB 2004/0229093).

Claim 1-5, 8, 13-14: Nakanishi teaches a fuel cell (anode and cathode) system with water absorbing members (70) arranged outside the oxidizing gas conduits (36). These members are attached to a roller (74) and rotated to approach and depart from the electrode [Abstract, Figure 3]. The absorbent is rotated to the other side of the roller to be dried [Figure 4]. The prior art's absorbent element is interpreted to be a "Sheet" since it is located on a rotating belt with a plane exposed to the electrode opening. Sheet does not add structural limitation to overcome the prior art of record. "A vicinity of" also does not overcome the prior art of record since the absorbent plane rotates to approach and depart from the electrode while collecting byproducts.

Claim 6-7, 9-12: A controller for the rotating wheel relies on level of moisture (humidity) [Paragraph 10]. This controller has a control unit that stores data [Paragraph 27]. The controller controls valve [Paragraph 31]. The controls also comprise voltage sensors and are therefore capable of detecting temperature [Paragraph 35].

Claim 24: The above rejection for claim 1 applies for this rejection. The further limitation is taught by Nakanishi wherein the side edge of the electrode is the surface of which the absorbent sheet opposes.

Claim 27: Claim 1 rejection is to be repeated for this rejection. Interpretation of Nakanishi shows a position where the absorbent is in contact with the oxidant electrode

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side surface and then is rotated away from the oxidant electrode. The absorbent is located on a belt and exists between these two positions.

Claim 23, 26, 29: The absorbent element is attached to the rotating belt and has dimensions that make it a sheet [Paragraph 25].

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22, 25, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakanishi et al. (PGPUB 2004/0229093 as applied to claim 1, 24, 27 above, and further in view of Yamada et al (USPAT 5,432,023).

Claim 22, 25, 28: Nakanishi teaches an absorbent material being made of woven fabric or non-woven fabric of glass fibers, ceramic fibers, or any other suitable fibers that absorb water and aid in wicking/capillary motion [Paragraph 25]. Nakanishi fails to teach

Yamada teaches a water-absorbing substance to be polyethylene acrylonitrile, acrylates, silica hydrogels, and gelatins [Col 40, 44]. It would have been obvious for one of ordinary skill in the art to use Yamada's specific material selection for Nakanishi's general selection because Yamada teaches a water wicking system that removes fuel cell water away from the cell [Col 38-44].

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1 have been considered but are moot in view of the new ground(s) of rejection.

The applicant is advised to include the limitation "The absorbent sheet disposed on the oxidant electrode sandwiched between the electrode and a separator plate" or other equivalent structural limitations that establish the location of the movable absorbent material located between the electrode and plate.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHEN YANCHUK whose telephone number is (571)270-7343. The examiner can normally be reached on Monday through Thursday 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/STEPHEN YANCHUK/  
Examiner, Art Unit 1795

/PATRICK RYAN/  
Supervisory Patent Examiner, Art Unit 1795

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